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November 7, 2006

COMMISSIONERS

Delta Protection Commission

RE: Old Sugar Mill Specific Plan Appeals – Determination of Delta Protection Commission
Jurisdiction and Appealable Issue

Dear Commissioners:

On November 3, 2006, two appeals were filed with the Commission challenging the October 24, 2006 decision of the Yolo County Board of Supervisors to approve the Old Sugar Mill Specific Plan and related actions. One appeal was filed by the Natural Resources Defense Council; the other was filed by the Concerned Citizens of Clarksburg and other parties. Under the Commission's applicable regulation (Cal. Code Regs., tit. 14, § 20008), it hears appeals in two sequential stages. First, it holds a hearing at the first available meeting after the appeal is filed, but in no event more than 45 days after the filing, and determines whether the matter falls within the Commission's jurisdiction and raises an appealable issue. Second, if a majority of Commissioners determine that there is an appealable issue within its jurisdiction, then the Commission hears the appeal on its merits at its next available, regularly-scheduled meeting.

This letter, prepared at the request of your Executive Director, constitutes staff's recommendation concerning questions presented in the first hearing stage: whether the appeals before the Commission are within the Commission's jurisdiction, and whether they raise an appealable issue. Based upon the analysis that follows, we recommend that the Commission find that it has jurisdiction over these appeals and that they raise one or more appealable issues.

Discussion:

On October 24, 2006, the Yolo County Board of Supervisors approved the Old Sugar Mill Specific Plan, which, subject to additional approvals, would allow the redevelopment of the Delta Sugar Mill in the town of Clarksburg. The Plan would specifically allow 28.2 acres of residential development (162 new homes), 24.7 acres of commercial uses, 29.7 acres of industrial uses, 5.7 acres of public uses, 3.2 acres of waterfront, and 3.9 acres of roads. Prior to that approval, the 105.4-acre subject site had been zoned as M-2 (Heavy Industrial). That zoning precluded some uses that would be allowed by the Old Sugar Mill Specific Plan, most notably residential development. (See Yolo County Code, §§ 8-2.1801 - 8.2-1804.)

The Commission generally has jurisdiction over “development” within the “primary zone.” The two jurisdictional questions before the Commission are whether the Old Sugar Mill Project is on land that is within the primary zone, and if so, whether it constitutes development under the Commission’s governing statute.^{1/} We will address each question in turn.

Is the Project located within the primary zone?

The location of the primary zone is specified in the Commission’s enabling statute, the Delta Protection Act (Pub. Resources Code §§ 29700, et seq.). As will be seen, the specification includes two sentences that can be inconsistent. The first of those sentences appears to exclude this area from the primary zone. It reads as follows:

“Primary Zone” means the delta land and water area of primary state concern and statewide significance which is situated within the boundaries of the delta, as described in Section 12220 of the Water Code, but that is not within either the urban limit line or sphere of influence line of any local government's general plan or currently existing studies, as of January 1, 1992.

(Pub. Resources Code § 29728.^{2/}) The term “urban limit line” is further defined in section 29734:

"Urban limit line" means that general plan line established and approved by any local government within the delta which delineates boundaries beyond which urban development is not publicly proposed by local government, as of January 1, 1992.

The Old Sugar Mill Project is on land that one could argue was proposed for “urban development” by “local government” as of January 1, 1992. Specifically, the project is located on property that was zoned “industrial” in the Clarksburg General Plan adopted by the Yolo County Board of Supervisors on August 24, 1982. (Yolo County is a local government under

1. Although the Draft Environmental Impact Report for the Old Sugar Mill Specific Plan concluded that this land is within the primary zone and subject to review by the Commission, the Recirculated Draft EIR states that this issue is “unclear.” (Old Sugar Mill Specific Plan Recirculated Draft EIR, November 2005, p. 2.1-60.) The report goes on to conclude that in any event, the activities authorized by the Plan are not “development” covered by the Delta Protection Act. (*Id.* at pp. 2.1.-61 through 68.)

2. All statutory references are to the Public Resources Code unless otherwise specified.

section 29725.^{3/}) The Board incorporated that Clarksburg plan as an element of the Yolo County General Plan on July 17, 1983. On December 17, 1992, the Board reaffirmed the Clarksburg General Plan's provisions. A copy of that plan is attached to this letter as Attachment A.

Although the property was zoned "industrial," however, which would appear to be a type of "urban development," a strong argument can be made that the particular industrial uses provided for in the plan were not urban. The Clarksburg General Plan included a "goal [that] demands that priority be given to residences and structures which support agriculture in the lands surrounding Clarksburg." (Plan, p. 3). That goal, combined with the historic use of the Old Sugar Mill site as a processing plant for Yolo County sugar beets until it was closed in 1993 (see Old Sugar Mill Specific Plan Recirculated Draft EIR, November 2005, pp. 2.1-1 to -2), indicate that the land was not proposed for "urban development," but was instead intended to retain its agricultural support function. The site, however, is depicted as part of the "Clarksburg Urban Area" on the 1982 General Plan's maps. On balance, it is therefore a close call whether or not this property comes within section 29728's initial definition of the primary zone.

The second sentence in section 29728's definition of primary zone, however, does not lead to any ambiguity. That sentence states as follows:

The precise boundary lines of the primary zone includes the land and water areas as shown on the map titled "Delta Protection Zones" on file with the Secretary of State.

There is no question that all of Clarksburg, including the Old Sugar Mill Project land, is depicted as within the primary zone on that map. A copy of that map is attached to this letter as Attachment B. (At the Commission's hearing, we will present a larger copy of that map, along with documentation from the Secretary of State establishing the authenticity of that copy.)

Given that the first statutory sentence describing the primary zone might be interpreted as excluding the Old Sugar Mill property from that zone, while the second sentence unquestionably includes that land, how do we determine whether or not it is in the primary zone? This question was previously addressed by our office back in 1994. As indicated in the attached memorandum to the Commission from then Supervising Deputy Attorney General Richard M. Frank (see Attachment C), at that time Commission staff noticed similar discrepancies. Specifically, parcels

3. Section 29725 states as follows:

"Local government" means the Counties of Contra Costa, Sacramento, San Joaquin, Solano, and Yolo, and the Cities of Sacramento, Stockton, Tracy, Antioch, Pittsburg, Isleton, Lathrop, Brentwood, Rio Vista, and West Sacramento, and Oakley, and any other cities that may be incorporated in the future in the Primary Zone.

were located within a sphere of influence line, and therefore excluded from the primary zone under the statute's first defining sentence, yet they were shown as within the primary zone on the map referenced in the second defining sentence. At that time, we concluded that the second defining sentence prevailed. That conclusion was based upon the plain meaning of that sentence, which begins "The precise boundaries" By using the word "precise," we determined that in the case of inconsistencies, the map cited in that sentence prevails over the textual description contained in the prior statutory sentence.

We continue to agree with that logic. In addition, we believe that there are three additional reasons for reaching the same conclusion.

First, Mr. Frank's interpretation was issued less than two years after the statutory provision in question became effective. (The provision became effective on January 1, 1993; the interpretation was issued on November 3, 1994.) The general rule of statutory construction is that, while "an administrative agency's interpretation is not binding" on the courts, "when a statute is susceptible of more than one interpretation, we will consider an administrative interpretation of the statute that is reasonably contemporaneous with its adoption." (*Sara M. v. Superior Court* (2005) 36 Cal. 4th 998, 1011-1012.) Since Mr. Frank was representing the Commission when he issued the memorandum, and it was reasonably contemporaneous with the statutory enactment, we believe that the memorandum has added weight.^{4/}

Second, our review of the Delta Protection Act's legislative history reveals that the map depicting Clarksburg -- including the Old Sugar Mill property -- as being within the primary zone was before the legislature when it was considering the statutory language in question. Specifically, Senate Bill 1866 (1991-1992) was the legislative proposal that eventually became the Delta Protection Act. When that bill was before the Assembly Committee on Natural Resources, the committee was presented with a larger version of the map that is attached to this letter as Attachment D. (At the Commission's hearing, we will present a copy of that larger map, along with the Secretary of State's certification that the map is a true and correct copy of "Selected pages; Map - Assembly Committee on Natural Resources, SB 1866, 1991-1992.") That map depicts Clarksburg, including the Old Sugar Mill property, as being in the primary zone. Thus, when the legislative committee approved language stating that the "precise boundary lines of the primary zone" are depicted on a specified map, it was not acting in the abstract. Rather, it had that map showing Clarksburg in the primary zone before it. Matters

4. That reasonably contemporaneous interpretation was reinforced by the Commission itself. Less than four months after Mr. Frank issued the memorandum, the Commission adopted a plan that lists Clarksburg as being within the primary zone. Specifically, on February 23, 1995, the Commission adopted its Land Use and Resource Management Plan for the Primary Zone of the Delta. Page 15 of that plan stated (and continues to state), in relevant part, as follows: "Unincorporated communities lie along the Sacramento River in the Primary Zone including: Clarksburg, Courtland, Hood, Locke, Walnut Grove, and Ryde."

before a legislative committee reviewing a bill that is eventually enacted into law are generally considered by the courts in determining legislative intent. (See *Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc.* (2005) 133 Cal.App.4th 26, 31-40, listing legislative intent matters that are, and are not, recognized by the Third District Court of Appeal.)

Third, the only case that we have been able to locate in which a court reviewed a similar conflict between a statute's textual description of jurisdiction, and maps, held that the maps prevailed. Specifically, in *Rossco Holdings, Inc. v. State of California* (1989) 212 Cal. App. 3d 642, the court faced the question of whether or not certain property was in the coastal zone, and therefore within the jurisdiction of the California Coastal Commission. The applicable statute contained both a textual description of the coastal zone, and a reference to maps. Specifically, it defined the coastal zone as "that land and water area . . . , specified on the maps identified and set forth in Section 17 of that chapter of the Statutes of the 1975-76 Regular Session enacting this division, . . . [I]t extends inland to the first major ridge line paralleling the sea or five miles from the mean high tide line of the sea, whichever is less, . . ." (Pub. Resources Code, § 30103, subd. (a).)

In *Rossco*, the maps in question showed the subject property as being in the coastal zone. The owner, however, asserted that applying the textual definition of the coastal zone, the property was outside of that zone. Specifically, he argued that the property was located beyond the first topographic elevation paralleling the sea, and that that elevation constituted "a major ridge line" under the statute.

The court, however, held that the maps prevailed. It explained as follows:

The coastal zone is referred to as generally described in words and specifically defined by the maps. A well-settled rule of statutory construction dictates that the specific must control over the general. (Citations omitted.) Therefore, the boundary established by the maps must preponderate over the verbal description in the statute.

(*Id.* at 652.)

Based upon Mr. Frank's memorandum, the fact that it was relatively contemporaneous with the effective date of the statute in question, the fact that the map in question – which clearly included Clarksburg – was before the Legislature when it adopted the statute, and the holding in *Rossco Holdings, Inc. v. State of California, supra*, 212 Cal. App. 3d 642, we conclude that the map prevails and that the Old Sugar Mill property is within the primary zone. That still leaves the jurisdictional question, however, of whether or not the project is "development" under the Commission's enabling statute.

Is the Project “Development” as Defined by the Delta Protection Act?

The Delta Protection Act first defines “development” broadly, and then lists a series of exceptions to that definition. There is no question that the Old Sugar Mill project comes within the broad definition of development, which includes, among other things, erecting structures, changing land use density and divisions of land.^{5/} Rather, the question here is whether the project comes within the highlighted language in the following exception:

(9) Construction, reconstruction, demolition, and land divisions within existing zoning entitlements, and **development within, or adjacent to, the unincorporated towns of the delta, as permitted in the Delta Area Community Plan of Sacramento County and the general plan of Yolo County, authorized prior to January 1, 1992.**

As previously noted, the Old Sugar Mill project is on land that was in the Clarksburg General Plan adopted by the Yolo County Board of Supervisors on August 24, 1982. Moreover, the provisions of that Clarksburg plan were incorporated into the Yolo County General Plan on July 17, 1983, and remained in effect as of January 1, 1992. That raises the question of whether this development was “permitted in” that plan.^{6/} We conclude that it was not.

As we noted earlier, the project is on land that was zoned “M-2 (Heavy Industrial)” in the pre-January 1, 1992, general plan of Yolo County. The project, however, calls for uses that are not

5. Specifically, Public Resources Code section 29723 states as follows:

(a) "Development" means on, in, over, or under land or water, the placement or erection of any solid material or structure; discharge of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivisions pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code), and any other division of land including lot splits, except where the land division is brought about in connection with the purchase of the land by a public agency for public recreational or fish and wildlife uses or preservation; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes.

6. It is not clear whether the phrase in this statute, “authorized prior to January 1, 1992,” refers to the date that the plan needed to have been approved, or reinforces the requirement that the development had to have been “authorized” prior to that date. In either case, the statute requires that the development had to have been permitted prior to January 1, 1992.

permitted in a heavy industrial zone, such as the proposed use of approximately 28 acres for residential structures. The project, therefore, would not have been “permitted” in the general plan of Yolo County in effect prior to January 1, 1992. Since the Delta Protection Act’s exemption is limited to development that was “permitted” at that time, and this project would not have been permitted, the project does not fall within the exemption. The project is therefore “development” under the act. We will now turn to the question of whether or not the appeals raises an appealable issue.

Do the Appeals Raise an Appealable Issue?

Issues that are appealable to the Commission are specified in section 29770 as follows:

The ground for an appeal and the commission consideration of an appeal shall be that an action, as to land located exclusively within the primary zone, is inconsistent with the resource management plan, the approved portions of local government general plans that implement the resource management plan, or this division.

Before reviewing whether or not either appeal raises an appealable issue, it is important to stress that the Commission is not reviewing whether or not either appeal is meritorious. The sole question before the Commission at this first stage hearing is whether or not the appeals even raise questions that the Commission is authorized to review. For example, if an appeal only asserted that a local action was invalid because it violated a party’s Constitutional right to equal protection, that would not be an appeal that the Commission could review. Given the limited, threshold nature of the Commission’s inquiry, this should not be viewed as an opportunity to address the merits of the appeals. Moreover, a finding that an appeal raises an appealable issue, does not indicate whether or not the appeal is likely to succeed.

With these principles in mind, we will now review the appeals. Both appeals assert that the Old Sugar Mill Specific Plan is inconsistent with various policies of the Delta Protection Act and the resource management plan. Moreover, in addition to presenting its own arguments, the Concerned Citizens of Clarksburg incorporate the arguments made by the Natural Resources Defense Council. Finally, the Concerned Citizens of Clarksburg assert that the Old Sugar Mill Specific Plan is inconsistent with the portions of the Yolo County General Plan that implement the resources management plan.

Most fundamentally, both appeals contend (among other things) that the county’s decision is inconsistent with the resource management plan in a number of ways. These include allegations that the decision does the following:

- Approves a new sewage treatment facility in violation of Utility and Infrastructure Policy P-3.

- Violates Land Use Policies P-2 through P-4 and Agricultural Policy P-4 by authorizing new urban development and new infrastructure in the Primary Zone.
- Violates Levee Policies P-1 through P-5 by exposing the public to increased flood hazard.

We are not in a position to evaluate the merits of these contentions. We do, however, believe that they fall four square within the types of issues that are appealable to the Commission. Rather than raising extraneous issues outside of the Commission's jurisdiction, they present issues that fall directly within the Commission's appellate authority -- the application of the resource management plan to this project.

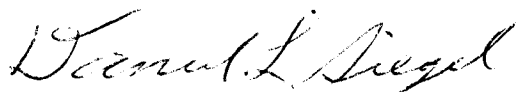
Conclusion:

We conclude that the Old Sugar Mill project is subject to the Delta Protection Commission's jurisdiction. The project is located within the primary zone, and it constitutes development under the Delta Protection Act. We also conclude that the appeals raise appealable issues. We therefore recommend that the Commission proceed as follows:

- 1) Find that each of the pending appeals filed by the Natural Resources Defense Council and the Concerned Citizens of Clarksburg and other parties:
 - a) involves a matter that falls within the Delta Protection Commission's jurisdiction,
and
 - b) raises one or more appealable issues.
- 2) Direct staff to schedule a consolidated hearing on the merits of the two appeals to be conducted as part of the Commission's regularly-scheduled January 2007 meeting.

Please note that this office and your Executive Director will be available at the upcoming Delta Protection Commission meeting to answer any questions that commissioners might have concerning this analysis.

Sincerely,



DANIEL L. SIEGEL
Supervising Deputy Attorney General

For BILL LOCKYER
Attorney General

ATTACHMENT A

CLARKSBURG

general plan



**Yolo County Community
Development Agency**

CLARKSBURG
GENERAL PLAN

Adopted By The Yolo County Planning
Commission
On July 21, 1982

Adopted By the Yolo County Board of Supervisors
on August 24, 1982

Reaffirmed by the Yolo County
Board of Supervisors
on December 8, 1992

Prepared by
Yolo County Community
Development Agency

DEC 17 1992

PAULA L. COOPER
DEPUTY

RESOLUTION NO. 92-164

A RESOLUTION REAFFIRMING THE PROVISIONS
OF THE ADOPTED 1982 CLARKSBURG GENERAL PLAN,
AN ELEMENT OF THE YOLO COUNTY GENERAL PLAN

WHEREAS, on August 24, 1982 the Yolo County Board of Supervisors adopted the
Clarksburg General Plan;

WHEREAS, on July 17, 1983 the Board of Supervisors adopted the Yolo County
General Plan which incorporated the Clarksburg General Plan as an element
thereof;

WHEREAS, on March 19, 1991 the Board of Supervisors approved Minute Order 91-
121 directing County staff to work with the Clarksburg General Plan Committee
to review the provisions of the Clarksburg General Plan and report back to the
Board for its consideration;

WHEREAS, over the past two years the Clarksburg General Plan Committee has
expended its own funds and conducted numerous meetings to determine the
desires of the Clarksburg community with respect to future growth and
development issues; and

WHEREAS, following extensive community input and analysis by the Clarksburg
General Plan Committee;

NOW THEREFORE BE IT RESOLVED THAT the Yolo County Board of Supervisors
reaffirms the policies and provisions of the Clarksburg General Plan initially
adopted by the Board of Supervisors on August 24, 1982.

BE IT FURTHER RESOLVED THAT the Board of Supervisors recognizes and
commends members of the Clarksburg General Plan Committee for their tireless
efforts to reflect the desires of the Community and reach consensus on issues
relating to future growth and development and the protection of the rural,
agricultural character of the community.

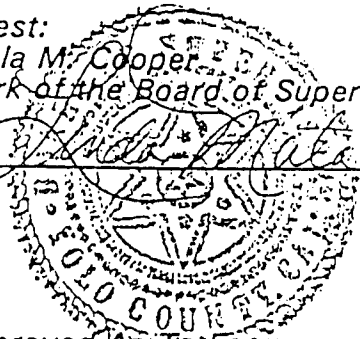
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Betsy A. Marchand

Betsy Marchand, Chair
Board of Supervisors
County of Yolo
State of California

Attest:
Paula M. Cooper
Clerk of the Board of Supervisors

By: *Paula M. Cooper*



Approved As To Form:
Charles Mack
County Counsel

By: *Paul A. Khamis Jr.*
Asst.

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ACKNOWLEDGMENTS
1982

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Irv Wilcox

FOREWORD

This is a simple plan to stabilize the pleasant circumstances of the Clarksburg Urban Area and the Clarksburg Area. Faced with the potential problems that would come with growth, this community has determined to stabilize its size and configuration to present standards, while anticipating a few additional dwellings as in-fill on vacant parcels or as rehabilitation or replacement of older dwellings in the future.

The representative Ad Hoc Committee discussed the potential impact of developing a sewer system in the Clarksburg Urban Area to accommodate future growth and decided to choose "no sewer" and consequently no growth potential. The General Plan designations reflect this determination to stabilize the community and many of the policies expressed in this plan are designed to support that basic policy and to provide for improvement in the quality of life in the area.

No significant land use change is proposed in the Clarksburg Area outside the Clarksburg Urban Area; agriculture is planned to remain as the preferred land use there.

This Plan is not complicated by extensive or detailed studies and data because it does not call for significant change. Additionally, information about the Clarksburg Area (from Bevan Road on the north to the County line on the south) was available in data compiled for the Southport Area Plan and Environmental Impact Report prepared at about the same time this plan study was underway. Some RL, Residential Light, designators were applied to areas previously designed AG, Agricultural, but growth there is still limited by the addition of the acreage limiting number "10" (for 10 acre minimum lot size) appended to the RL designator. The effect of this change is to allow residential amenities, limit intensive animal raising (such as hog farms or dairies), and yet prevent subdividing to more parcels.

The County Planning Agency, including the Staff, the Zoning Administrator, the Commission, and the Board will implement this Plan through presently available administrative procedures including zoning, use permits, site plan reviews, environmental review, building permit approvals, and zoning law enforcement. Improvements to the community will be encouraged in terms of the Plan. Any proposed changes to the Plan will be reviewed by a local citizens review group before official adoption of changes.

By these means, Clarksburg will improve with minimal growth and continue as a pleasant place to live, while the surrounding agricultural land use remains.

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1. The purpose of this study was to determine the effect of a 12-week training program on the physical fitness of sedentary individuals.

2. The subjects were 10 sedentary individuals, aged 20-30 years, with no previous experience of organized physical activity.

3. The training program consisted of three sessions per week, each lasting 45 minutes, for a total of 12 weeks.

4. The results showed that the subjects had a significant improvement in their physical fitness, as measured by the 12-minute shuttle run test, after the 12-week training program.

5. The conclusion was that a 12-week training program can significantly improve the physical fitness of sedentary individuals.

SUMMARY

Certain general policies and maps of the Master Plan of Yolo County are either amended or repealed by this Plan.

CLARKSBURG GENERAL PLAN is an additional statement of public policy, with maps, to guide future land use decisions in the Clarksburg Area and the Clarksburg Urban Area based on the following accepted goals;

1. To protect the social, historic, cultural, and environmental values of the area.
2. To preserve productive soils for agricultural land uses and to protect agricultural land uses from urban interference in the Clarksburg Area.
3. To promote locally viable services and provide for community recreational needs.
4. To minimize new divisions of land outside the CLARKSBURG URBAN AREA.
5. To preserve and protect the public health, safety, and welfare.

The goals of the Plan will be achieved by means of the following policies:

- Development of housing should be encouraged only within the Urban Limit Line to prevent "sprawl" onto agricultural lands adjacent to the community. Improvement and replacement of existing substandard housing should be encouraged.
- The County will help maintain and enhance circulation routes for all modes of transportation within Clarksburg as needed to support community efficiency and productivity.
- Circulation routes which contribute to community efficiency and productivity should be maintained and enhanced.
- New street construction required by any new development shall be supplied by the developer.
- New street construction required by any new development shall be supplied by the developer.

- The County shall help assure that noise levels in Clarksburg are maintained at or below existing levels through zoning and development permit standards and regulations.
- Public safety services should be reviewed each five years for adequacy.
- It is recommended that a workable means of energizing the street lights be found.
- A seismic safety educational program should be provided by the State for local citizens.
- Lot "splits" smaller than 20 acres shall not be approved by the Planning Commission in order to ensure continued agricultural use in the agriculturally designated areas.
- Recreational opportunities should be improved in the GENERAL PLAN AREA.
- The school grounds should be opened for use during nonschool hours.
- The tree lined approach to Clarksburg along Jefferson Boulevard should be preserved and perpetuated in the future.
- "Bank protection" work, which results in the total destruction of vegetation along a scenic corridor (25 miles of South River Road, or County Road E9), that has been designated a Scenic Highway in the County General Plan should be curtailed to conserve the scenic qualities of this route.
- Any approved urban development proposal within the Clarksburg Urban Limit Line must include "will serve" statements from the Clarksburg Fire District, Delta Unified School District, County Health Department, Sheriff's Department, and Public Works Department, which letters address the adequacy of the existing urban services required by the development, cost of servicing the development, and their ability to provide these required services. Each service agency shall indicate satisfaction with the service levels and funding sources provided for in the development proposal before approval is made of the tentative map by the County Planning Agency.
- Any development in the rural areas outside of the Urban Limit Line should be supportive of agriculture. Agricultural development is considered to be any customary agricultural building, dwellings appurtenant to an agricultural use, electrical substations, hunting clubs, oil and gas operations, parks and recreation areas, farm labor camps, kennels, riding stables, mobile homes for farm employees or as family guest houses, and other uses found by the Yolo

County Planning Commission to be consistent with the purpose and intent of this Clarksburg Area General Plan. The County should initiate studies leading to enhance opportunity to provide additional on farm housing for farm family members in agricultural zones.

- Recommendations of the Clarksburg Plan Committee will be used by the Yolo County Planning Commission in deciding on General Plan, zoning, variance, or other permit applications.
- The areas designated G-C on the Plan map shall be zoned and used for commercial purposes as described under the G-C designation in the Yolo County General Plan.
- The areas designated R-M on the General Plan shall be zoned and used for multiple family and professional offices as described under the R-M designation in the Yolo County General Plan.
- The areas designated R-L on the General Plan shall be zoned and used for light residential uses as described under the R-L designation in the Yolo County General Plan.
- The areas designated R-L-10 on the General Plan shall be zoned and used for light residential uses as described as compatible zones in Table 1 of this Plan and shall not be divided into parcels of less areas than one-quarter of one-quarter of one-quarter of a section.
- The areas designated I on the Plan map shall be zoned and used for industrial uses as described under the I designation in the Yolo County General Plan.
- The areas designated P-O-1 on the Plan map shall be zoned and used for public uses as described under the P-O designation in the Yolo County General Plan.
- The areas designated P-O-2 on the Plan map shall be zoned and used for public uses as described under the P-O designation in the Yolo County General Plan and shall also include boys' and girls' clubs, mens' and womens' clubs, charitable organizations, and church activities including church sales and other cultural activities found to be similar by the Yolo County Planning Commission at public hearing.
- The areas designated O-S on the Plan map shall be zoned and used for open space uses as described under the O-S designation in the Yolo County General Plan including water oriented recreation, with appropriate permits.

- The areas designated AG on the Plan map shall be zoned and used for agricultural uses as described in the Yolo County General Plan.
- Noise levels around town should be held to existing (1982) levels to ensure the health of the community.
- No additional circulation routes are necessary or foreseen and the existing circulation system shall be retained.
- Any proposed community development should be contiguous to town, or be infill or replacement appropriately scaled, and of the proper types to promote the continued stability of the area.
- The GENERAL PLAN AREA shall be the Clarksburg Fire District and the landfill on the east side of the SHIP CHANNEL.
- Boundaries of CLARKSBURG URBAN AREA should be defined as those shown on the present urban zoning map of Clarksburg.

Implementation Recommendation

The Ad Hoc Committee of residents from the Clarksburg Area should be appointed by the Yolo County Board of Supervisors to identify and study local issues and recommend solutions to community service and safety problems within the CLARKSBURG GENERAL PLAN AREA. The Committee should also be available as an "interested group" to review negative declarations and environmental impact reports relative to local projects and report back to the lead agency. The Committee should review and report back to the Planning Commission on all applications for General Plan amendments in the Clarksburg General Plan Area.

Environmental Impact of the General Plan

When this General Plan is implemented, there will be no significant environmental impacts. All aspects of this Plan result in lower or lesser environmental effects than the Plan it replaces in the CLARKSBURG URBAN AREA, and stabilizes existing uses in the CLARKSBURG AREA GENERAL PLAN area.

1. Decision not to develop a community sewage disposal system.
2. Stabilization or reduction of commercial and residential land uses within the CLARKSBURG URBAN AREA and the CLARKSBURG AREA GENERAL PLAN area.

Effect: Long-term stability and restraint of new noise, air pollution, and/or other changes in community social, economic, or physical structures. Local and County control over the land uses and density will ensure appropriately scaled, responsive and community oriented projects in conformance with the goals of this CLARKSBURG AREA GENERAL PLAN. No environmental impact.

3. Limitation of lands in the CLARKSBURG AREA GENERAL PLAN outside the CLARKSBURG URBAN AREA to strictly agricultural uses.

Effect: Limit to no urban development in the area, with continued agricultural uses. No environmental impact.

Negative Declaration

There will be no significant environmental impacts resulting from the adoption or implementation of this General Plan. A negative declaration of environmental impact is therefore declared.*

* Adopted by the Yolo County Planning Commission July 21, 1982.

SECTION 1: COMMUNITY PROFILE

Clarksburg is a small rural community located on the Sacramento River in Southeast Yolo County. This CLARKSBURG GENERAL PLAN AREA and the CLARKSBURG URBAN AREA GENERAL PLAN are amendments to the Yolo County General Plan and are combined in this policy document to guide future land use in the community and in the agricultural lands in the region. The policies and maps herein are consistent with the Yolo County General Plan and exceed those basic requirements in certain specified ways in order to implement the public needs and safety identified in these areas.

Clarksburg is located on the wide, flat, floodplain of the Sacramento-San Joaquin Delta. The residential and rural service community is surrounded by richly productive agricultural lands.

HISTORIC CLARKSBURG

The Spanish began sending expeditions into the Sacramento River Delta region in 1772. Their passage left no mark on the area but the arrival of John A. Sutter in 1839 certainly did. The presence of European and American settlers introduced widespread ranching and agricultural activity to the region. One renowned settler, Ezekiel Merritt (second in command of the Bear Flag Revolt of 1846), established a hunting camp on a dry, oak covered island in the northern delta country which today carries his name.

The huge influx of settlers after the Bear Flag Revolt, and the discovery of gold in 1849, led to the founding of Clarksburg and many other towns in the region. The town was named for a respected lawyer from Ohio, Judge Robert C. Clark, who is credited with having the first peach orchard in Yolo County. A site was selected beside Elk Slough, adjacent to Merritt Island, where the settlers tied up their houseboats in the tules to fish and farm on a few dry acres. The area is part of an extensive flood plain.

The "rimlanders", as they were known, benefited from State Legislation passed in the mid 1850s to reclaim delta lands. They produced peaches, plums, walnuts, dryland grain, and dairy products behind small private levees. In the 1860s the town was totally destroyed by flooding and rebuilt with Chinese labor secured at 50 cents per day for levee reconstruction. The reclamation districts of Merritt and Libson Islands were established to finance and maintain the larger levees of the 1870s. The town then consisted of a busy steamboat landing, a blacksmith's shop, general store, hotel, creamery, and Chinese laundry, in addition to several homes built on stilts.

The years passed with periodic flooding and growth, challenging the scattered residents and shaping this farming community. About 1911, a large scale reclamation

scheme was initiated by the Netherlands Farm Company in the area. In the early 1900s the Holland Land Company was founded and Holland Reclamation District 999 was established. A railroad spur was built, and "responsible, ambitious" farmers were recruited to work the newly drained lands. Progressive farming techniques and close ties with the University Farm at Davis were established. Initial crops included grains and the rich loams began to support such specialized row crops as asparagus, sugar beets, lettuce, and lettuce seed.

The early twenties saw the construction of both the high school (in 1929) and the elementary school, while the thirties brought the sugar beet processing factory, at least four oil company bulk plants and three retail automobile dealerships. The Freeport Bridge was constructed and the old dock complex burned to the waterline. Clarksburg had turned from the river transportation to the roads. The Holland Land Company started selling out to individual farmers and, at this time, the Community Church was built on land donated by them.

During the 1930s and 1940s, farmers were intensively cultivating large areas of the district, requiring equally large influxes of farm laborers. The 1960s and 1970s saw a shift from labor intensive agricultural methods to a more mechanized form. The farm labor camps that once dotted the countryside have, in the past few years, been only about half full of seasonal workers, and labor housing facilities have been reduced.

SOCIAL PROFILE

The population of Clarksburg has always been fairly stable. The 1975 Special Census gave the population for the town itself as 353, compared to 363 in 1969. The greater community area encompassing the eastern part of Census Tract 104, has population of 1,581, according to the 1980 United States Census.

ECONOMIC PROFILE

The work location of the greatest number of principal wage earners is the Clarksburg-East Yolo area (57%). The second largest group were those who listed Sacramento as their place of employment (19%).

EDUCATION CULTURAL PROFILE

The elementary and high schools in Clarksburg are both part of the River Delta Unified School District headquartered in Rio Vista. The Delta Community Head Start Center is in Walnut Grove. Several private schools offer primary and secondary education in Sacramento.

Local colleges and universities include the University of California at Davis, University of California at Sacramento, University of the Pacific in Stockton, and the campuses of the Los Rios Community College District.

CHURCHES

The two churches serving Clarksburg are St. Joseph's Catholic Church on South River Road north of the Freeport Bridge and the Community Church (Protestant). The church buildings are used for a large number of cultural functions.

LIBRARY

The Yolo County branch library in Clarksburg was located in the high school building until the 1950s. For a number of years thereafter a bookmobile service was provided and, in 1964, the Clarksburg Friends of the Library purchased a private house on Netherlands Avenue, remodeled it, and rented it to the County as the new branch library. Later, a meeting room was added to the property and it is now owned and managed by the friends for various social functions. The recent County dilemma associated with Proposition 13 has resulted in increased local support for the library with the Friends absorbing all maintenance and utility costs on the buildings.

COMMUNITY ORGANIZATIONS

Social and service organizations are important in town and are well represented. Boy Scouts and Campfire Girls, F.F.A., 4-H, the Firemen's Association, the Garden Club, and the Friends of the Library are the most visible groups in town. Residents are also involved with the West Sacramento Rotary Club, Courtland Lions Club, and the California Farm Bureau (of which one farmer president and the current president are from Clarksburg). The Reclamation Districts 999, 307, 150, and Fire District Boards of Directors function as formal problem solving bodies.

RECREATION

Recreation opportunities around town are varied and diverse. The schools provide organized recreation for young people. The organizations provide activities, trips, and gatherings. There are town basketball and baseball teams in season which compete against other delta towns. Several private marinas, as well as the County boat ramp, are located nearby for hunting, fishing, and boating in the delta country. Passive recreation opportunities can be found on the school grounds, a small park near the school, and along the levees and sloughs throughout the district. Some facilities have recently limited use for several reasons.

FACILITIES AND SERVICES

Police and Fire

Law enforcement services are provided by the Yolo County Sheriff's Department with an office in Borderick and two resident deputies in Clarksburg. Fire service is provided by the Clarksburg Fire District 999, 150 and 307. The fire station is in town, on Clarksburg Avenue, and is manned by 20 volunteers with three trucks one of which is a 3,000 gallon tanker, giving the district a Rural 8 rating by the Insurance Service Office (most rural communities are rated only 9 or 10).

Utilities

Water and Sewer

Utilities, such as domestic water and sewage disposal, are the responsibility of each property owner

Electric and Gas

Electricity and gas are provided by Pacific Gas and Electric whose office is in Rio Vista.

Telephone

General Telephone makes telephone service available to the area and has an office in Courtland.

Solid Waste

Solid waste collections contracted with a private service, with the only alternative being the County operated central landfill near Davis.

Streets and Street Lights

Street maintenance, curbs, drainage, and lighting have been provided by the County; however, no publicly paid street lights are presently available.

FLOOD CONTROL

Flood control is provided by the levees and drainage facilities of the Reclamation Districts. Each of the above services must be paid for either directly or by special district assessment.

HEALTH SERVICES

Community health and welfare services are provided by both public and private organizations. The Yolo County Health Department offers medical services at the Salud Clinic in Broderick. A branch of the Environmental Health Department (offering analysis of any food, water, noise, or sewage problems) is also located in Broderick, with the main office in Woodland.

The County also provides Mental Health Services which include the Alcohol and Other Drug Abuse Center. These clinics offer crises help, counseling, and treatment. The Yolo General Hospital is located in Woodland, but ambulance service and other hospitals are found in East Yolo (13 miles) and Sacramento (9 miles). Residents of Clarksburg have family physicians in several surrounding towns, including Sacramento.

AIR QUALITY

The Yolo-Solano Air Pollution Control District is responsible for enforcement of air quality regulations in the Clarksburg area. The sugar processing plant and petroleum bulk plant are tested for particulate and hydrocarbon emissions. There are specific burn days for residential and agricultural burning and a permit is required.

WATER QUALITY

Water quality regulations are enforced by the State Water Quality Control Board. The American Crystal Sugar Company has a solid waste and sewage treatment system operating in-house to ensure Sacramento River quality. A cooling tower is used to reduce the temperature of water used in the factory before it is returned to the river.

East Yolo and Southport sewage, which has undergone secondary treatment, is presently being discharged into the Sacramento River by the East Yolo Community Services District at Rose Road. Hopefully, in the future, that sewage will receive tertiary treatment.

TRANSPORTATION AND COMMUNICATIONS

Clarksburg relies heavily on personal automobile transportation. Bicycles or walking are acceptable methods of transportation within the town because of its small area and quiet streets.

The Sacramento Northern Railroad ships freight via its spur line to the edge of town, but trucks are main suppliers for the community. Private boats are launched or docked at the landing. River shipping has been replaced by the highway. However, if need be, the river could once again be of service to commercial Clarksburg.

Telephones, television, and radio are all available, as well as the delivery of three or more regional newspapers. The Rio Vista Newspaper provides coverage of the Clarksburg community.

GOVERNMENT STRUCTURES

Clarksburg is an unincorporated community. Local government powers and responsibilities rest with the County of Yolo and various special districts which serve the area. The "police power" of the County to protect the welfare of its citizens is derived from the State Constitution and, ultimately, the U.S. Constitution. If certain services deemed essential by the community are unavailable in the private sector and not provided by existing government agencies, then additional powers may be granted to an existing special district (or a new one can be created) with two-thirds vote of the electorate.

COURTS

The local Municipal Court is located in Broderick, with the Superior Courts in Woodland.

GENERAL PLAN ELEMENTS

CLARKSBURG GENERAL PLAN

Adopted By The Yolo County Planning Commission
On July 21, 1982

Adopted By The Yolo County Board of Supervisors
On August 24, 1982

SECTION II: GENERAL PLAN ELEMENTS

HOUSING ELEMENT

Policy

- Development of housing should be encouraged only within the urban limit line to prevent "sprawl" onto agricultural lands adjacent to the community. Improvement and replacement of existing substandard housing should be encouraged. Replacement housing is encouraged, and other housing for relatives and farm workers is permitted as described in the appropriate agricultural zones used to implement this Plan.

CIRCULATION ELEMENT

Policy

- The County will help maintain and enhance circulation routes for all modes of transportation within Clarksburg as needed to support community efficiency and productivity.
- Circulation routes which contribute to community efficiency and productivity should be maintained and enhanced.
- New street construction required by any new development shall be supplied by the developer.

NOISE ELEMENT

Policy

- The County shall help assure that noise levels in Clarksburg are maintained at or below existing levels through zoning and development permit standards and regulation.

SAFETY AND SEISMIC SAFETY ELEMENT

Policy

- Public safety services should be reviewed each five years for adequacy.

Street Lighting

- It is recommended that a workable means of energizing the street lights be found.

Seismic Safety

- A seismic safety educational program should be provided by the State for local citizens.

OPEN SPACE AND CONSERVATION ELEMENT

Policy

- Lot "splits" smaller than 20 acres shall not be approved by the Planning Commission in order to ensure continued agricultural use.
- Divisions of farm lands should be discouraged.

Parks, Recreation, and Marinas

- Recreational opportunities should be improved in the GENERAL PLAN AREA.
- The school grounds should be opened for use during nonschool hours.
- Specifically, the tree lined approach to Clarksburg along Jefferson Boulevard should be preserved and perpetuated in the future.

SCENIC HIGHWAYS ELEMENT

Policy

- "Bank protection" work, which results in the total destruction of vegetation along this corridor, should be curtailed to conserve the scenic qualities of this route.

LAND USE ELEMENT

Goals

The expressed, desirable stable residential future for Clarksburg requires protection of the historic, cultural, and environmental values presently found there. This goal should be coupled with a firm commitment in Yolo County to conserve agricultural land uses on productive soils. This demands that priority be given to residences and structures which support agriculture in the lands surrounding Clarksburg. Also important, but secondary to the residential and agricultural integrity of the area is a goal of local commercial service viability and provision for community recreational and cultural needs. Recreational land uses, fishing and pheasant hunting, which serve tourists, are recognized as an important part of the commercial segment of the community. However, recreational parking (boat trailers, et cetera) by fishermen is considered a local problem to be mitigated where possible. The ability to provide on farm housing for family members in agricultural areas is sought.

Urban Development Policy

Development policies are necessary to carry out these goals. Protection of the public health, safety, and welfare and the advancement of these goals is sought by these policies:

- Policy Any approved urban development proposal within the Clarksburg Urban Limit Line must include "will serve" statements from the Clarksburg Fire District, Delta Unified School District, County Health Department, Sheriff's Department, and Public Works Department which letters address the adequacy of the existing urban services required by the development, cost of servicing the development, and their ability to provide these required services. Each service agency shall indicate satisfaction with the service levels and funding sources provided for in the development proposal before approval is made of the tentative map by the County Planning Agency.

The County recognizes the agricultural land uses around Clarksburg are of regional benefit. Extending urban services and nonagricultural land uses beyond the urban limit line while undeveloped land exists within Clarksburg will detrimentally impact the productivity of the surrounding agricultural environment.

- Policy Any development in the rural areas outside of the Urban Limit Line should be supportive of agriculture. Agricultural development is considered to be any customary agricultural building, dwellings appurtenant to an agricultural use, electrical substations, hunting clubs, oil and gas operations, parks and recreation areas, farm labor camps, kennels, riding stables, mobile homes for farm employees or as family guest houses, and other uses found by the Yolo County Planning Commission to be consistent with the purpose and intent of this Clarksburg Area General Plan. Agricultural development in the CLARKSBURG AREA shall include the storage and wholesaling of agricultural chemicals, fuels, and lubricants. The County should initiate studies leading to enhanced opportunity to provide additional on-farm housing for farm family members in agricultural zones.

Land Use Policy

This land use plan provides the citizens of the town with the means to control growth. Recommendations concerning planned growth or no-growth will be made at the community level, as expressed in this Clarksburg General Plan.

- Policy Recommendations of the Clarksburg Plan Committee will be used by the Yolo County Planning commission in the process of deciding on General Plan, zoning, variance, or other permit applications.

The density and population of the town of Clarksburg may be expected to rise. However, the rate of urban growth should be managed so as to ensure enhancement of the stability and diversity of this unique community while maintaining the amenities of rural life.

Commercial Policy

The traditional center of Clarksburg's business and commerce was the steamboat landing. This area, already a business zone, is suited to more intensive commercial use. The area is designated General Commercial (G-C) in this General Plan. Along Clarksburg Road near South River Road is another commercial area which is also designated General Commercial (G-C) in the Plan. The sizes of these commercial

areas are based on existing commercial districts. They will be more than adequate to serve the community for many years.

- Policy The areas designated General Commercial on the Plan map shall be zoned and used for commercial purposes as described under the General Commercial designation in the Yolo County General Plan.

Residential Policy

The existing single family low density neighborhoods will be protected and stabilized in the Residential Light Density (R-L) designation at densities of no more than five units per acre.

- Policy The areas designated Residential Light Density on the General Plan shall be zoned and used for light residential uses as described under the Residential Light Density (R-L) designation in the Yolo County General Plan.

Industrial Policy

Existing industrial land uses are found at the north and south edges of town in the areas designated Industrial (I) in the General Plan. Any industrial expansion or new industry should occur in those existing industrial areas.

- Policy The areas designated Industrial (I) on the Plan map shall be zoned and used for industrial uses as described under the (I) designation in the Yolo County General Plan and the areas designated I-PD should be developed through the use of Planned Development zoning and processes.

Public Policy

The public open space (P-O) designation applies to all public school sites.

- Policy The areas designated Public Open Space (P-O-1) on the Plan map shall be zoned and used for public or institutional uses as described under the P-O designations in the Yolo County General Plan. Areas designated P-O-2 shall be zoned and used for public uses as described under the P-O designation in the Yolo County General Plan and shall also include boy's and girls' clubs, mens' and womens' clubs, charitable organizations, and church

activities, including church sales* and other cultural activities found to be similar by the Yolo County Planning Commission at public hearing.

Open Space Policy

The Open Space (O-S) overlay designation covers land along the Sacramento River. The short range goals of the open space designation along the riverfront are to preserve the existing natural vegetation and wildlife and to protect scenic vistas. New land uses are expected to help conserve this area and support the community.

- Policy The areas designated Open Space (O-S) on the Plan map shall be zoned and used for open space uses as described under the O-S designation in the Yolo County General Plan including water oriented recreation with appropriate permits.

Noise Policy

- Policy Noise levels around town should be held close to existing (1982) levels to ensure the health of the community.

Circulation Policy

- Policy No additional circulation routes are necessary or foreseen.

Agricultural Policy

The focus of land uses outside of town has been, and should continue to be, agricultural uses.

- Policy Any proposed community development should be contiguous to town, infill, or replacement appropriately scaled, and of the proper types to promote the continued stability of the area.
- Policy Existing nonagricultural uses and existing agricultural related uses shall be allowed to continue, or to be replaced in case of catastrophic demise or disuse up to one year, according to zoning requirements on lands designated agricultural, except those zoned Agricultural Preserve (A-P).

* Retirement home.

General Policies

- Boundaries of the CLARKSBURG AREA shall be the area shown on the Clarksburg Area Plan Map.
- Boundaries of CLARKSBURG URBAN AREA shall be the area shown on the Clarksburg Urban Area Plan Map.

NEGATIVE DECLARATION

NEGATIVE DECLARATION

SECTION III. ENVIRONMENTAL ASSESSMENT - NEGATIVE DECLARATION

The environmental assessment is integrated with this Plan.

Description of the Project

The project is a General Plan for the Clarksburg Area and the Clarksburg Urban Area unincorporated area of Yolo County. No significant changes in land use or division are planned.

Environmental Setting

Clarksburg's relationship to the countryside and qualities of its environment are found in the Yolo County Open Space and Conservation Elements of the General Plan. This Clarksburg General Plan directs stabilization of the community at preset uses and present use densities. It also directs some reduction of the residential density presently allowed in the existing (1959) Master Plan.

Environmental Impacts

This Clarksburg General Plan will have no significant environmental impacts.

1. No central sewer system. This Plan specifically avoids recommending a central sewer system in order to specifically limit the kinds, number, and intensity of allowed land uses.
2. No significant intensification of commercial and residential land use.

This Plan provides policies that will allow only replacement and infill of commercial and residential land uses. No significant rise in density or population numbers will result.

The rate of growth will be automatically controlled to conform with this General Plan and the wishes of the citizens of Clarksburg, by means of the application of the existing land use control processes to carry out these adopted policies. Active local responsibility for review of land use policy and control of the urbanization and agricultural processes will avoid significant impacts.

There are no irreversible commitments of resources required by this Plan.

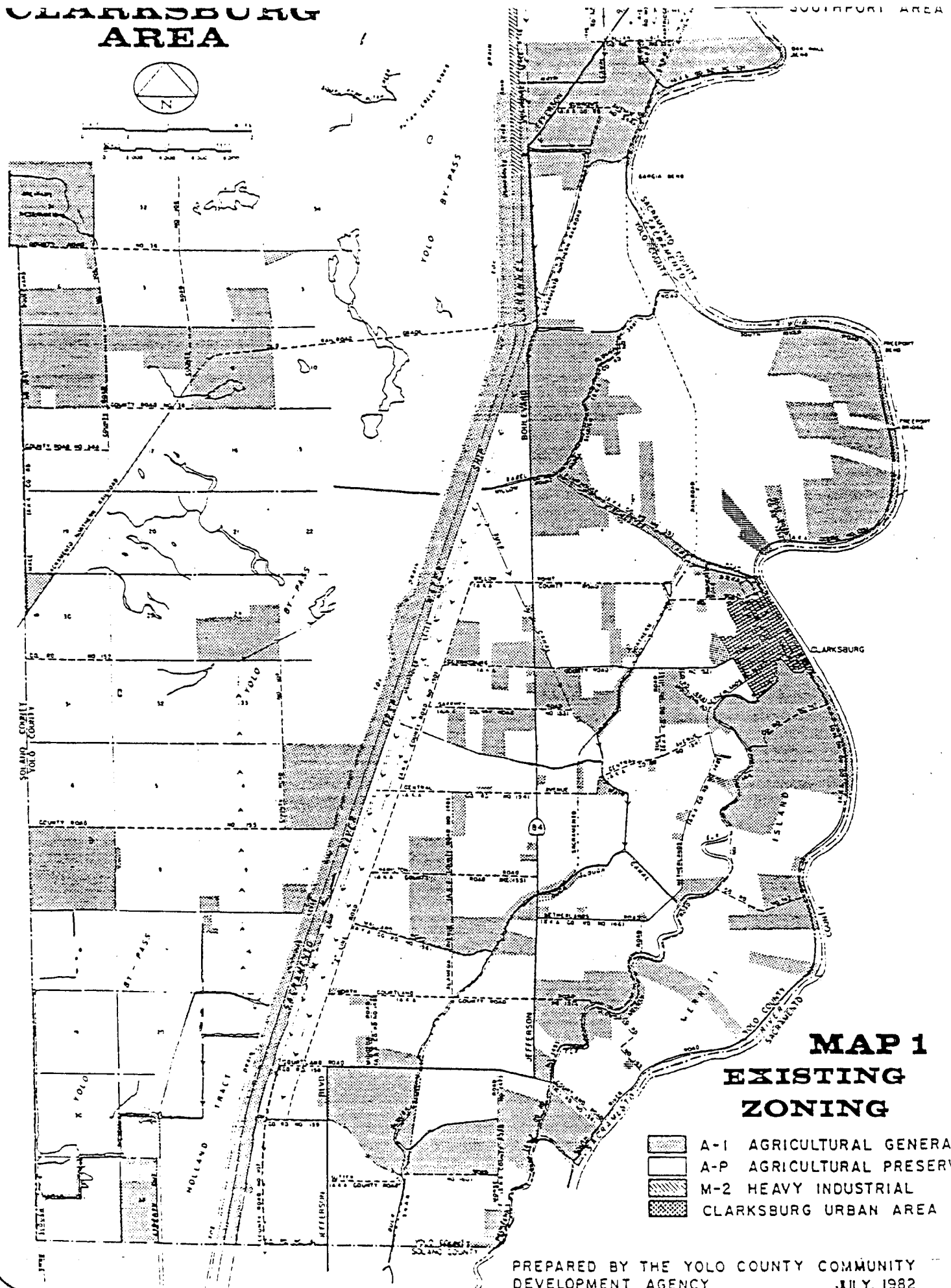
Growth will not be induced by this General Plan. The Plan is designated to regulate growth to infill and replacement only.

The community of Clarksburg may enhance its attractiveness by careful protection, renovation, and reconstruction.

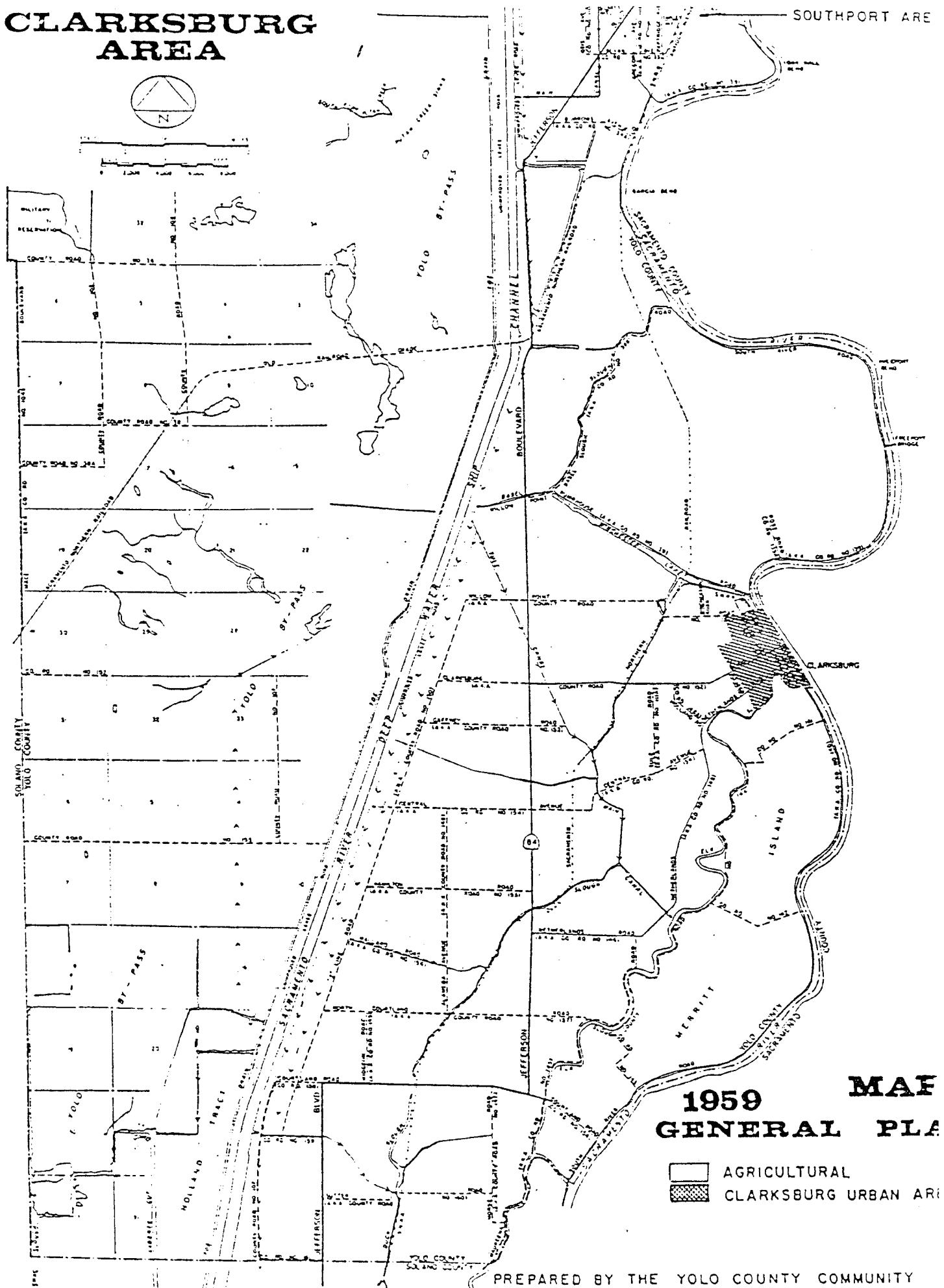
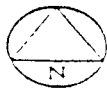
NEGATIVE DECLARATION

There will be no significant environmental impacts resulting from the adoption or implementation of this General Plan. A Negative Declaration of Environmental Impact is therefore declared.



CLARKSBURG AREA



- SOUTHPORT ARE



1959 MAF
GENERAL PLA

 AGRICULTURAL
 CLARKSBURG URBAN AREA

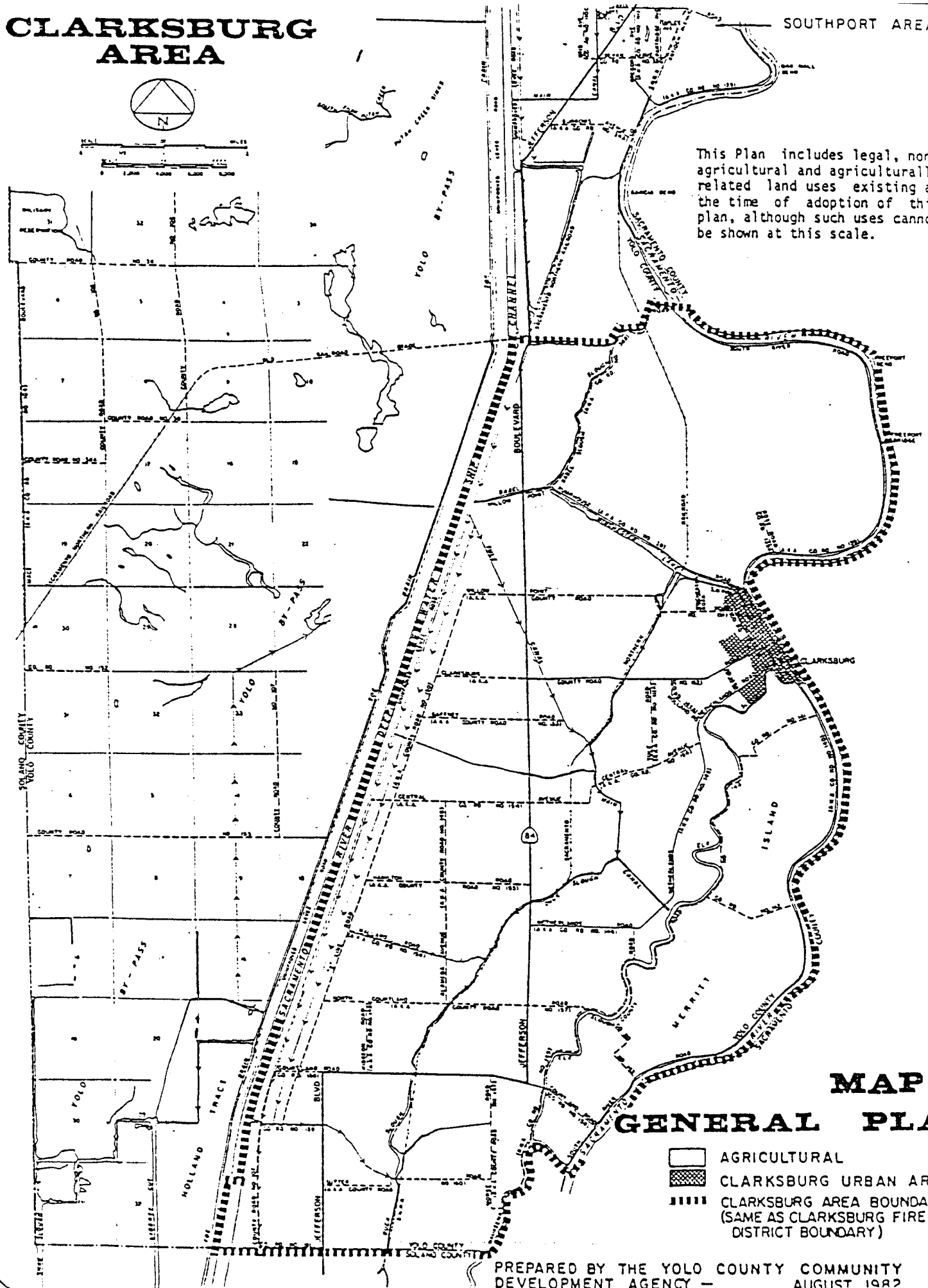
PREPARED BY THE YOLO COUNTY COMMUNITY

CLARKSBURG AREA




SOUTHPORT AREA



This Plan includes legal, non-agricultural and agriculturally related land uses existing at the time of adoption of this plan, although such uses cannot be shown at this scale.



MAP 8 GENERAL PLAN

-  AGRICULTURAL
-  CLARKSBURG URBAN AREA
-  CLARKSBURG AREA BOUNDARY-
(SAME AS CLARKSBURG FIRE
DISTRICT BOUNDARY)

PREPARED BY THE YOLO COUNTY COMMUNITY
DEVELOPMENT AGENCY - AUGUST 1982

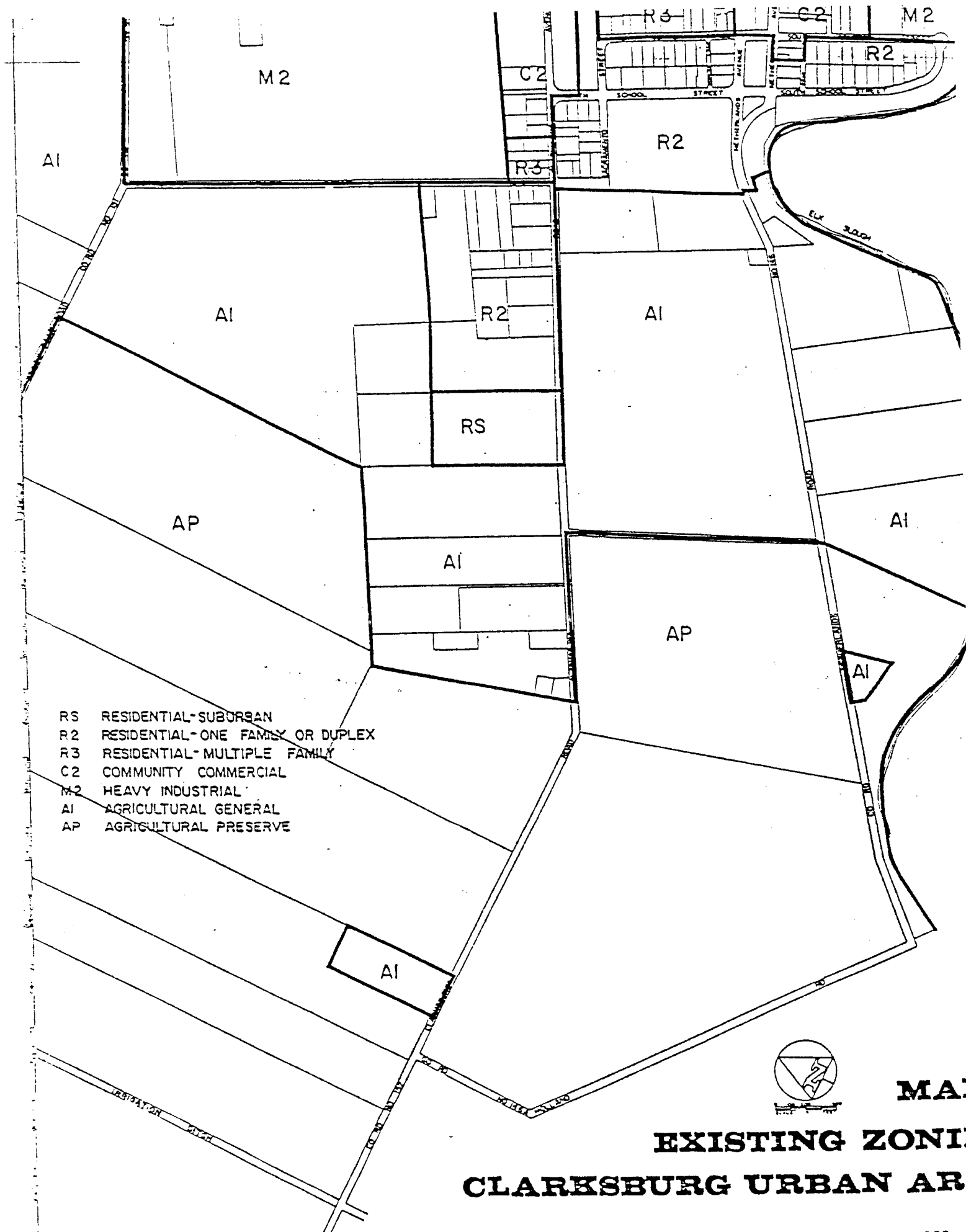


TABLE 1

<u>General Plan Designators</u>		<u>Compatible Zones</u>
RL	Low Density Residential	A-1 Agricultural General R-S Residential Suburban R-1 Residential - One Family R-2 Residential One Family or Duplex P-D Planned Development (Combining)
RL-10	Low Density Residential (10 acre minimum parcel)	A-1 Agricultural General R-S Residential Suburban P-D Planned Development (Combining)
RM	Residential High Density	A-1 Agricultural General R-2 Residential One-Family or Duplex R-3 Residential Multiple Family P-D Planned Development (Combining)
GC	General Commercial	A-1 Agricultural General C-2 Community Commercial C-3 General Commercial P-D Planned Development (Combining)
I	Industrial	A-1 Agricultural General M-1 Light Industrial M-2 Heavy Industrial P-D Planned Development (Combining)
OS	Open Space	A-1 Agricultural General A-P Agricultural Preserve PR Park and Recreation AV Airport Zone (Clear Zones Only) P-D Planned Development (Combining) (See Open Space and Conservation Elements for other uses)
PO-1	Public Open Space Type 1	A-1 Agricultural General A-P Agricultural Preserve PR Park and Recreation AV Airport Zone (Clear Zones Only) P-D Planned Development (Combining)

PO-2 Public Open Space
 Type 2

A-1 Agricultural General
A-P Agricultural Preserve
PR Park and Recreation
AV Airport Zone (Clear Zones Only)
P-D Planned Development (Combining)
(Also allows Scouts, clubs, church,
school, and other civic meetings and
activities including handcraft sales by
such groups.)

AG Agricultural

A-1 Agricultural General
A-E Agricultural Exclusive
A-P Agricultural Preserve
AV Airport Zone (Clear Zones Only)

"10 acres" is defined as 1/4 of 1/4 of 1/4 of a section, less any public right-of-way.

ATTACHMENT B

State of California
Secretary of State

I, BRUCE McPHERSON, Secretary of State of the State of California, hereby certify: selected pages of Delta Protection Act of 1992.

That the attached transcript of 2 page(s) was prepared by and in this office from the record on file, of which it purports to be a copy, and that it is full, true and correct.



IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

FEB 22 2006

BRUCE McPHERSON
Secretary of State



Office of the Secretary of State
March Fong Eu

Executive Office
1230 J Street
Sacramento, California 95814

(916) 445-6371

January 8, 1992

The Honorable Senator Johnston
SENATE COMMITTEE ON NATURAL
RESOURCES AND WILDLIFE
Subcommittee on the Sacramento/
San Joaquin Delta Protection
State Capitol, Room 2068
Sacramento, CA 95814

Dear Senator Johnston:

This letter is to acknowledge the filing in this office of a map of zones for the Delta Protection Act of 1992 pursuant to Public Resources Code Sections 29728 & 29731. This map was filed as of January 4, 1993.

Please be informed that if you wish to access the map or receive certified copies, you must contact our Limited Partnership Special Filings Division at 923 12th Street, 3rd Floor, Sacramento (916) 324-6777.

If I can be of further assistance, please call me at 445-1364.

Sincerely,

A handwritten signature in cursive script, reading "Jerry W. Hill".

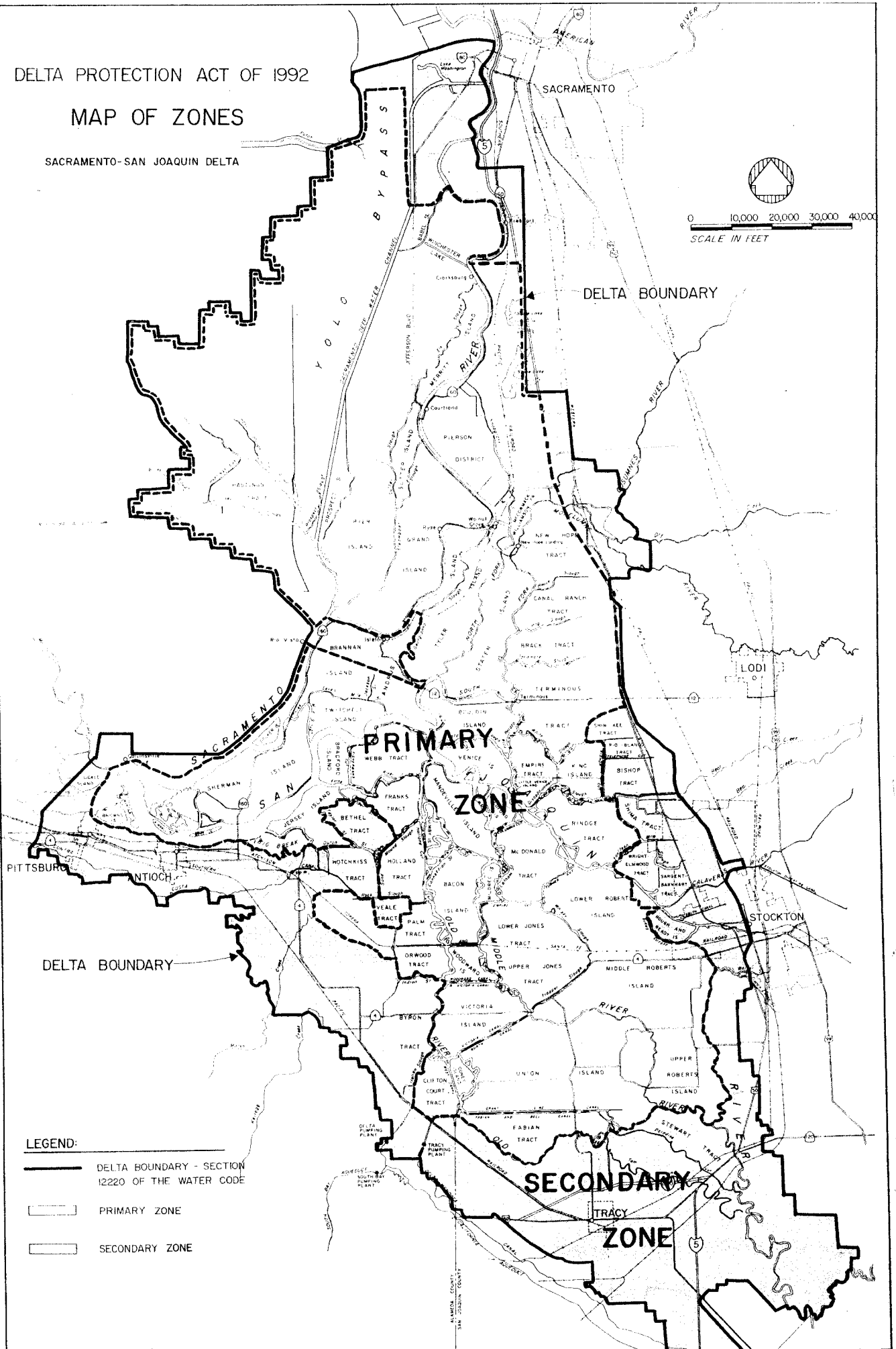
JERRY W. HILL
Assistant Secretary of State

JWH:cjp

DELTA PROTECTION ACT OF 1992

MAP OF ZONES

SACRAMENTO-SAN JOAQUIN DELTA



ATTACHMENT C

Memorandum

To : COMMISSIONERS
Delta Protection Commission

Date : November 30, 1994

Telephone: ATSS (8) 485-8178
(916) 445-8178
FACSIMILE (916) 324-5205

From : RICHARD M. FRANK
Supervising Deputy Attorney General
Land Law
Office of the Attorney General - Sacramento

Subject : Commission Jurisdiction--The "Primary Zone"

Recently, several questions have arisen regarding the extent of the Commission's jurisdiction. Specifically, those questions center around the Delta's "primary zone," that area which is the main focus of the Commission's planning responsibilities and appeal jurisdiction under the Delta Protection Act.

This memorandum deals with two particular issues that have arisen in that context: 1) how the statutory definition of the "primary zone," as set forth in section 29728 of the Act, is properly interpreted; and 2) whether the boundaries of the primary zone would change in the future if and when municipalities annex lands that are currently outside city boundaries and within the primary zone.

Interpreting the Statutory Definition of "Primary Zone"

The Commission's principal planning and administrative appeal jurisdiction is limited to the Delta's "primary zone," as that term is defined in Public Resources Code section 29728. That section provides in pertinent part:

"`Primary zone' means the delta land and water area of primary state concern and statewide significance, which is situated within the boundaries of the delta, as described in Section 12220 of the Water Code, but which is not within either the urban limit line or sphere of influence line of any local government's general plan or currently existing studies, as of January 1, 1992. The precise boundary lines of the primary zone includes the land and water areas as shown on the map titled "Delta Protection Zones" on file with the Secretary of State." (Emphasis added.)

We are advised by Commission staff that over the past two years, various discrepancies have arisen in determining which specific parcels are inside or outside of the primary zone. For example, some parcels have been discovered to be within a local

COMMISSIONERS

November 26, 1994

Page 2

government's sphere of influence line, but nonetheless located within the area shown on the "Delta Protection Zones" map on file with the Secretary of State. The problem becomes, how does the Commission reconcile these inconsistencies, given the potential confusion generated by the multi-part, statutory definition set forth above?

We believe the answer can be obtained by looking at the plain language of the statutory definition itself. The second sentence of Public Resources Code section 29728 begins, "The precise boundaries of the primary zone..." This passage indicates that, in the event inconsistencies or conflicts arise in determining whether particular properties are or are not within the primary zone, the second sentence--the more "precise" demarcation--controls.

Accordingly, we conclude that where there exists a conflict between the various criteria contained in section 29728, designating the boundaries of the primary zone, the Commission is required to rely specifically on the boundary lines shown on the "Delta Protection Zones" map currently on file with the Secretary of State.

(This does not mean that the Commission is totally without recourse to address situations where the primary zone boundaries, as shown on that map, seem clearly erroneous or illogical. In that case, the Commission may formally request the Legislature to correct the problem(s) by amending the Delta Protection Act to make the necessary, technical changes to the boundaries of the primary zone.

Future City Annexations of Lands Within the Primary Zone

Commissioner Potter asked about the extent of Commission jurisdiction over lands, currently within the primary zone, which in the future are annexed or otherwise brought within a municipality's sphere of influence. As we understand it, the specific question is whether the Commission would retain planning and appeal jurisdiction over such lands in such a case.

We conclude that such lands would, absent legislative action, remain fully subject to Commission jurisdiction.

The statutory definition of the primary zone (Public Resources Code section 29728, quoted above) is fixed in time. That is, the definition describes the primary zone as including, first, to all areas of the Delta as described in Water Code section 12220 except those within local urban limit lines or sphere of influence lines as of January 1, 1992. Section 29728 then goes on to rely specifically on the "Delta Protection Zone" map, which is stated as having been on file with the Secretary of State at

the time the Delta Protection Act took effect--i.e., on January 1, 1993.

The essential point is that the Delta Protection Act's demarkation of lands within the primary zone is fixed not only on the ground, but in time. Those boundaries were established on or before January 1, 1993, and they will remain fixed--at least for purposes of the Delta Protection Act--until and unless that Act is amended by the Legislature in the future.

Accordingly, it is irrelevant for purposes of ascertaining the proper boundaries of the primary zone whether cities expand into currently-undeveloped portions of the primary zone. The primary zone boundaries remain fixed. All such areas within the primary zone therefore remain subject to the Commission's planning and appeal jurisdiction.

Again, if the Commission, the municipalities involved or affected third parties believe this produces an unsatisfactory result, a remedy exists. The boundaries of the primary zone can be changed to reflect changed circumstances, but only by the Legislature via an amendment to the Delta Protection Act.

Please let us know if you have questions about the issues addressed in this memorandum.



RICHARD M. FRANK
Supervising Deputy Attorney General

ATTACHMENT D

State of California
Secretary of State

I, **BRUCE McPHERSON**, Secretary of State of the State of California, hereby certify: Selected pages; Map - Assembly Committee on Natural Resources, SB 1866, 1991-1992.

That the attached transcript of 8 page(s) was prepared by and in this office from the record on file, of which it purports to be a copy, and that it is full, true and correct.



IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

MAR 09 2005

A handwritten signature in cursive script, reading "Bruce McPherson".

BRUCE McPHERSON
Secretary of State

PROPOSED DELTA PROTECTION
ACT OF 1992

MAP OF ZONES

SACRAMENTO-SAN JOAQUIN DELTA

